



SOFTWARE USAGE AGREEMENT (SUA)
(Government Purposes Only - Project Release Under a Contract/Grant/Agreement)

_____ (hereinafter RECIPIENT) has requested that the United States Government as represented by the National Aeronautics and Space Administration, [Name of NASA Center], located at [NASA Center's Address] (hereinafter NASA), release the following computer software:

Name:

Version: _____ NASA Case No: **MFS-** (hereinafter SOFTWARE).

The authority for NASA to release SOFTWARE is NASA Policy Directive (NPG) 2210.1A, 2.2.5.2.

NOW THEREFORE, in consideration of NASA releasing the SOFTWARE to RECIPIENT and granting RECIPIENT the right to use such SOFTWARE for the stated purposes, RECIPIENT agrees as follows:

1. This SOFTWARE is not in the public domain and nothing in this Agreement shall be construed as making the SOFTWARE available to the public without restriction. The SOFTWARE shall be released only to employees of RECIPIENT and shall be used only in performance of NASA [insert as appropriate: contract/grant/cooperative agreement] [insert: contract/grant/cooperative agreement number].
2. There shall be no further distribution or publication of the SOFTWARE by RECIPIENT, neither the source code, nor the executable code, nor associated run-time applications, whether standalone or embedded, to or for use by any third party without the express prior written approval of NASA.
3. Excluded from the foregoing restrictions is information that:
 - a. was published, known publicly or otherwise in the public domain prior to the effective date of this agreement;
 - b. was known to RECIPIENT prior to the effective date of this agreement, provided that RECIPIENT shall have the burden of establishing such prior knowledge by competent written proof;
 - c. subsequent to the effective date of this agreement, is published by NASA, or becomes publicly known, or otherwise becomes part of the public domain through no act or omission of RECIPIENT; or

- d. subsequent to the effective date of this agreement, is made available to RECIPIENT by a third party under no obligation of confidentiality.
4. The SOFTWARE, and/or any modified or enhanced version thereof, shall not be published by RECIPIENT, given to another entity, or in any manner offered for sale to the U.S. Government or any other entity. The SOFTWARE may be used in contracts with the U.S. Government, but no charge may be made for its use.
5. The SOFTWARE remains the property of NASA. If the SOFTWARE is modified or enhanced pursuant to the [insert as appropriate: contract/grant] designated above, NASA will be provided the complete source code of the modified or enhanced version and the intellectual property rights will be defined by the regulations governing said contract.
6. NASA shall be neither liable nor responsible for any maintenance or updating of the SOFTWARE, nor for correction of any errors in the SOFTWARE.
7. The SOFTWARE is intended for domestic use only and shall not be made available to anyone outside of the United States. In addition, within the United States, the SOFTWARE shall not be made available to foreign persons (as defined by 22 CFR §120.16). Furthermore, the SOFTWARE shall not be provided to any person or entity listed on any “denied parties/persons” list (including the Office of Foreign Assets Control, Specially Designated Nationals and Blocked Persons; Office of Foreign Assets Control, Changes to List of Specially Designated Nationals and Blocked Persons; Office of Defense Trade Controls, List of Debarred Parties; Bureau of Export Administration, List of Denied Persons; Bureau of Export Administration, Entity List). RECIPIENT certifies that it is not a foreign person (as defined by 22 CFR §120.16) and is not listed on any of the aforementioned lists.
8. Notwithstanding any provisions contained herein, RECIPIENT is hereby put on notice that export of any goods or technical data from the United States may require some form of export license from the U.S. Government. Failure to obtain necessary export licenses may result in criminal liability of RECIPIENT under U.S. laws. NASA neither represents that a license shall not be required nor that, if required, it shall be issued. Nothing granted herein to RECIPIENT provides any such export license.
9. THE SOFTWARE IS PROVIDED “AS IS” WITHOUT ANY WARRANTY OF ANY KIND, EITHER EXPRESSED, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY THAT THE SOFTWARE WILL CONFORM TO SPECIFICATIONS, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND FREEDOM FROM INFRINGEMENT, AND ANY WARRANTY THAT THE DOCUMENTATION WILL CONFORM TO THE SOFTWARE, OR ANY WARRANTY THAT THE SOFTWARE WILL BE ERROR FREE. IN NO EVENT SHALL NASA BE LIABLE FOR ANY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, ARISING OUT OF, RESULTING FROM, OR IN ANY WAY CONNECTED WITH THIS SOFTWARE,

WHETHER OR NOT BASED UPON WARRANTY, CONTRACT, TORT , OR OTHERWISE, WHETHER OR NOT INJURY WAS SUSTAINED BY PERSONS OR PROPERTY OR OTHERWISE, AND WHETHER OR NOT LOSS WAS SUSTAINED FROM, OR AROSE OUT OF THE RESULTS OF, OR USE OF, THE SOFTWARE OR SERVICES PROVIDED HEREUNDER.

RECIPIENT AGREES TO WAIVE ANY AND ALL CLAIMS AGAINST THE U.S. GOVERNMENT, THE U.S. GOVERNMENT'S CONTRACTORS AND SUBCONTRACTORS, AND SHALL INDEMNIFY AND HOLD HARMLESS THE U.S. GOVERNMENT AND THE U.S. GOVERNMENT'S CONTRACTORS AND SUBCONTRACTORS FOR ANY DAMAGE THAT RECIPIENT MAY INCUR FROM RECIPIENT'S PRIOR OR FUTURE USE OF THE PROVIDED SOFTWARE, INCLUDING ANY DAMAGES FROM PRODUCTS BASED ON, OR RESULTING FROM, THE USE THEREOF.

IF FURTHER RELEASE OR DISTRIBUTION OF THIS SOFTWARE OR TECHNICAL DATA DERIVED FROM THIS SOFTWARE IS PERMITTED, RECIPIENT AGREES TO OBTAIN THIS IDENTICAL WAIVER OF CLAIMS, INDEMNIFICATION AND HOLD HARMLESS AGREEMENT WITH ANY ENTITIES THAT ARE PROVIDED WITH THE SOFTWARE OR TECHNICAL DATA DERIVED FROM USE OF THE SOFTWARE.

10. If the SOFTWARE and/or any documentation provided with the SOFTWARE includes a copyright notice, or other restrictive marking or legend, identifying it as a work of a third party, the third party software or documentation will be governed by the terms and conditions of its copyright, or other restrictive marking. NASA disclaims all warranties and liabilities regarding third party software, if present in the NASA generated SOFTWARE, and distributes it "as is."

11. This Agreement does not, in any manner, constitute an exclusive release of the SOFTWARE to RECIPIENT. NASA's distribution of the SOFTWARE to other entities is in no manner limited.

12. This Agreement does not, in any manner, constitute an endorsement by NASA of any test results, resulting designs, hardware, or other matters resulting from use of the SOFTWARE.

13. This Agreement does not, in any manner, constitute the grant of a license to RECIPIENT under any NASA copyright, patent, patent application or other intellectual property.

14. The restrictions on disclosure and distribution imposed by this Agreement shall apply to any software code developed by RECIPIENT that incorporates any portion of the SOFTWARE.

15. Any use of the SOFTWARE by RECIPIENT other than that authorized in this Agreement may result in liability of the RECIPIENT to the U.S. Government and/or other parties.

SOFTWARE USAGE AGREEMENT – Government Purposes Only (Project Release)

16. This Agreement shall be construed, and the legal relations between the parties hereto shall be determined, in accordance with United States federal law.

17. This Agreement constitutes the entire understanding and agreement between the parties hereto relating to release of the SOFTWARE and may not be superseded, modified or amended except by further written agreement duly executed by the parties.

18. RECIPIENT shall inform all employees of RECIPIENT given access to the SOFTWARE of the restrictions specified herein, and RECIPIENT shall require that such employees be bound by such restrictions. Furthermore, RECIPIENT represents that it has authority to bind such employees to the restrictions specified herein.

19. This Agreement shall terminate upon termination or expiration of the above-referenced [insert as appropriate: contract/grant/cooperative agreement] or at anytime prior to those dates upon NASA providing the RECIPIENT thirty (30) days written notice. Upon termination of this Agreement, RECIPIENT shall return the SOFTWARE to NASA, or if so instructed, shall certify that the SOFTWARE has been destroyed and/or deleted from the computer systems on which it resided.

20. The effective date of this Agreement shall be the date of RECIPIENT'S execution of this Agreement as set forth below. The person signing below on behalf of RECIPIENT represents that he or she is a United States citizen and has the authority to sign this Agreement on behalf of RECIPIENT.

Executed on Behalf of NASA by:

Caroline K. Wang
Software Release Authority

Date

Executed on Behalf of RECIPIENT by:

Name (printed or typed)

Signature

Date

Title

(Indicate formal title if signing as an authorized representative of a company or entity.
If signing as an individual, fill in the Title line as "Individual")

SOFTWARE USAGE AGREEMENT – Government Purposes Only (Project Release)

Project Name, Contract/Grant Number: _____

Name of RECIPIENT: _____

Address: _____

City/State/Zip: _____

Phone: _____

Fax: _____

E-mail: _____